

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROGER TATUM,

Petitioner,

v.

STEVE MANSFIELD,

Respondent.

Case No. C07-5168RBL

ORDER REFUSING TO SERVE
PETITION AND DIRECTING
PETITIONER TO SHOW CAUSE

The Court, having reviewed the § 2254 petition filed in this case, does hereby find and ORDER:

(1) The Court will **not** order a response to the petition because the petition does not indicate that petitioner's grounds for federal relief have been properly exhausted in state court. Specifically, the petition does **not** show that his claims for federal relief have been presented to the Washington State Supreme Court.

The exhaustion of state court remedies is a prerequisite to the granting of a petition for writ of habeas corpus. 28 U.S.C. § 2254(b)(1). If exhaustion is to be waived, it must be waived explicitly by respondent. 28 U.S.C. § 2254(b)(3). A waiver of exhaustion, thus, may not be implied or inferred. A petition can satisfy the exhaustion requirement by providing the highest state court with a full and fair opportunity to consider all claims before presenting them to the federal court. Picard v. Connor, 404 U.S. 270, 276 (1971); Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir.), *cert. denied*, 478 U.S. 1021 (1986). Full and fair presentation of claims to the state court requires “full factual development” of the claims in that forum. Kenney v. Tamayo-Reyes, 504 U.S. 1, 8 (1992).

1 (2) Petitioner is directed to show cause by **April 30, 2007**, why the petition should not be
2 dismissed for lack of exhaustion.

3 (3) The Clerk is directed to send copies of this Order and the General Order to petitioner.

4 DATED this 9th day of April, 2007.

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6 /s/ J. Kelley Arnold
7 J. Kelley Arnold
8 United States Magistrate
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